

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

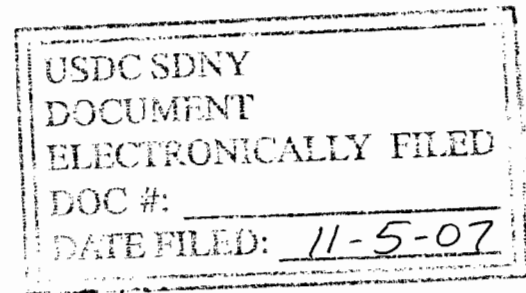
**3COM CORPORATION,**

**Plaintiff,**

**-against-**

**CAPITAL 4, INC., F. DAVIS  
DAWSON, and ISH VILLA-LOBOS,**

**Defendants.**



**Civ. No. 07-Civ.-8707 (JSR)**

**STIPULATED PRELIMINARY INJUNCTION**

IT IS HEREBY STIPULATED AND AGREED by the parties through their respective counsel, subject to the approval and Order of the Court, that the following Preliminary Injunction shall be entered in accordance with Fed. R. Civ. P. 65. It is hereby ordered, adjudged and decreed that the defendants are ORDERED, ENJOINED and RESTRAINED as follows:

1. Capital 4, including its principals, officers, directors, employees, agents, servants, successors and assigns, are hereby ENJOINED and RESTRAINED from making defamatory statements concerning 3Com.

2. Capital 4, including its principals, officers, directors, employees, agents, servants, successors and assigns, are hereby ENJOINED and RESTRAINED from making unauthorized use of 3Com's name and/or trademarks. All further use of 3Com's name and/or trademarks are unauthorized without 3Com's express written approval obtained subsequent to the date of this Order.

3. Capital 4 is hereby ORDERED to conduct a further reasonable search and to produce any and all of the following documents within its possession, custody or control that it can locate to 3Com's undersigned counsel's office by 5:00 p.m. on November 23, 2007. To the

extent Capital 4 is unable to produce the documents specified herein, it will cooperate in assisting 3Com in obtaining any such documents available from third parties by providing any authorizations, releases, or permission necessary to do so to 3Com.

- a. Copies of any customer agreement with Elmwood Reclaimed Timber and any and all documents referred to by or related to such agreement, including, without limitation, any related Public Access Service provider contracts and third party lending contracts.
- b. Copies of any and all agreements with the following entities:
  - i. Big City,
  - ii. Time Warner,
  - iii. Bell South,
  - iv. Windstream/Alltel,
  - v. ANI/Red River,
  - vi. Realinx,
  - vii. Data Foundry,
  - viii. Sprint/Nextel,
  - ix. Intertel,
  - x. Birch.
- c. Copies of any and all agreements with the following financial institutions:
  - i. Irwin,
  - ii. USXL,
  - iii. SGBGroup/Marlin Leasing,
  - iv. Tip Capital,
  - v. Evans,
  - vi. HP.
- d. Copies of all third party lending contracts and related documents associated with the following customers:

- i. Absolute Best Care Home Health;
- ii. Lord of the Streets Episcopal Church.

4. Capital 4 will produce to 3Com all documentation within its custody or control referenced anywhere in any Customer Service Agreement, including, but not limited to:

- i. All eBrochures and the relevant effective dates for each one;
- ii. All Service Level Agreements;
- iii. All other documentation which relates to or modifies the terms and conditions of any Customer Service Agreement.

5. Capital 4 is under a continuing obligation to produce to 3Com any and all of the following documents, to the extent such documents are within its possession, custody or control and have not already been produced to 3Com:

- a. Copies of all Customer Service Agreements executed in connection with the Power of \$Zero Program dated after December 1, 2004. 3Com reserves the right to request Customer Service Agreements dated on or before December 1, 2004 during pretrial discovery;
- b. Copies of all documentation concerning each Power of \$Zero Customer Service Agreement executed on paper bearing the 3Com name which were not processed to completion through the 3Com portal, including but not limited to:
  - i. all third party Public Access Service provider contracts and related documents;
  - ii. all third party lending contracts and related documents; and
  - iii. all contracts with Value Added Resellers and related documents;
- c. Any and all assignments as requested by 3Com that may be required by Public Access Services providers to transfer from Capital 4 to 3Com control over the Public Access Services for customers who have executed Customer Service Agreements on paper bearing the 3Com name which were not processed to completion through the 3Com portal and which assert that 3Com is the obligor, including but not limited to the customers identified on Schedule B to Amendment 1 to the First Contract Addendum.

6. Capital 4 is hereby ORDERED to produce, within 5 business days of 3Com's request, copies of any Public Access Service provider contracts and/or lending contracts and/or Value Added Reseller contracts identified by 3Com in conjunction with 3Com's review of documents related to the Power of \$Zero program provided such documents are related to Customer Service Agreements that mention 3Com.

7. Capital 4 is hereby ORDERED to redirect all Residual Payments from Lenders and/or Customers to 3Com for all Customer Service Agreements which assert that 3Com is the obligor.

8. F. Davis Dawson and/or Ish Villa-Lobos' defenses, including any and all defenses to personal jurisdiction in their individual capacities, are not waived and are otherwise expressly preserved.

9. In the event that Capital 4 fails to produce all documents required by paragraphs 3 and 5 in this Order, accompanied by a written representation that all documents responsive to the Stipulated Temporary Restraining Order dated October 12, 2007 and this Stipulated Preliminary Injunction have been produced by 5:00 p.m. on November 23, 2007, then Capital 4 shall provide reasonable access to 3Com to identify for copying any remaining documents required under this Order and/or the Stipulated Temporary Restraining Order of October 12, 2007.

10. All documents and materials produced in connection herewith shall not be used by 3Com except as contemplated by the agreements entered into between 3Com and Capital 4. Nothing contained herein is meant to indicate that either party admits it is bound by any such agreements in any other respect.

Dated: November 2, 2007  
New York, New York

 (TV)

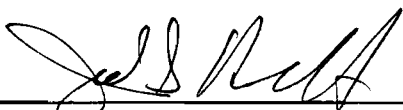
Daniel E. Rosenfeld (DR 4624)  
KIRKPATRICK & LOCKHART  
PRESTON GATES ELLIS LLP  
Daniel.Rosenfeld@klgates.com  
State Street Financial Center  
One Lincoln Street  
Boston, Massachusetts 02111-2950  
Tel: (617) 261-3100  
*Counsel for Plaintiff 3Com Corporation*

 (TV)

Luigi Spadafora (LS-8471)  
WINGET, SPADAFORA &  
SCHWARTZBERG, LLP  
spadafora.l@wssllp.com  
45 Broadway, 19th Floor  
New York, NY 10006  
Tel.: (212) 221-6900  
*Counsel for Defendants Capital 4, Inc., F. Davis  
Dawson and Ish Villa-Lobos*

This preliminary injunction shall remain in effect until further Order of the Court.

**SO ORDERED,**



Hon. Jed S. Rakoff, U.S.D.J.

11/2/07